



DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

[Docket No. USPC-2021-01]

Paroling, Recommitting, and Supervising Federal Prisoners:

Prisoners Serving Sentences Under the United States and District of Columbia Codes

AGENCY: United States Parole Commission, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The United States Parole Commission is revising its regulations to eliminate a policy of imposing the maximum permissible term of supervised release as a consequence of the revocation of an earlier supervised release term for offenders sentenced under the D.C. Code.

DATES: This regulation is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments due on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by docket identification number USPC-2021-01 by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
2. Mail: Office of the General Counsel, U.S. Parole Commission, attention: USPC Rules Group, 90 K Street, N.E., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Helen H. Krapels, General Counsel, U.S. Parole Commission, 90 K Street, N.E., Third Floor, Washington, D.C. 20530, telephone (202) 346-7030. Questions about this publication are welcome, but inquiries concerning individual cases cannot be answered over the telephone.

SUPPLEMENTARY INFORMATION: Since 2000, the Commission has maintained a general policy at 28 CFR 2.218(e), that it would impose the maximum permissible term of supervised release as a consequence of the revocation of an earlier supervised release term for offenders sentenced under the D.C. Code. The policy was based on the judgment that, for most cases, a supervised release violator has, by virtue of committing violations that are serious enough to justify revocation, shown the need for further supervision to the limits allowed by law.

Based upon its experience with the D.C. Code sentenced supervised releasees for over 20 years, the Commission has determined that this policy should be repealed. Under the reviewed regulation the Commission will retain the discretion to impose the maximum permissible term when it finds that the offender would benefit from a lengthier period of supervision, but there will no longer be a policy guiding that decision.

The Commission is promulgating this rule as an interim rule and is providing a 30-day period for public comment. The revised rule will take effect upon publication in the Federal Register.

Executive Orders 12866 and 13563

This regulation has been drafted and reviewed in accordance with Executive Order 12866, “Regulation Planning and Review,” section 1(b), Principles of Regulation, and in accordance with Executive Order 13565, “Improving Regulation and Regulatory Review,” section 1(b), General Principles of Regulation. The Commission has determined that this rule is

not a “significant regulatory action” under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rule does not have sufficient federalism implications requiring a Federalism Assessment.

Regulatory Flexibility Act

This rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

Unfunded Mandates Reform Act of 1995

This rule will not cause State, local, or tribal governments, or the private sector, to spend \$100,000,000 or more in any one year, and they will not significantly or uniquely affect small governments. No action under the Unfunded Mandates Reform Act of 1995 is necessary.

Small Business Regulatory Enforcement Fairness Act of 1996 (Subtitle E–Congressional Review Act)

This rule is not a “major rule” as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 Subtitle E–Congressional Review Act, now codified at 5 U.S.C. 804(2). This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on the ability of United States-based companies to compete with foreign-based companies. Moreover, this is a rule of agency practice or procedure that does not substantially affect the rights or

obligations of non-agency parties, and does not come within the meaning of the term “rule” as used in Section 804(3)(C), now codified at 5 U.S.C. 804(3)(C). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and Parole.

The Interim Rule

Accordingly, the U. S. Parole Commission amends 28 CFR part 2 as follows:

PART 2 – [AMENDED]

1. The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. Revise § 2.218(e) to read as follows:

§2.218 Revocation decisions.

* * * * *

(e) If the Commission imposes a new term of imprisonment that is equal to the maximum term of imprisonment authorized by law or, in the case of a subsequent revocation, that uses up the remainder of the maximum term of imprisonment by law, the Commission may not impose a further term of supervised release.

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Patricia K. Cushwa,
Chairman (Acting), U.S. Parole Commission.

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